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Testimony Submitted on Behalf Of:
National Railroad Construction and Maintenance Association (NRC)
and
Railroad Cooperation and Education Trust (RAILCET)

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Freight and Passenger Rail: Present and Future Roles, Performance, Benefits, and Needs
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NRC Overview
The National Railroad Construction and Maintenance Association, known as the NRC, is the national trade association representing the independent railroad construction and supply industry. There are over 650 independent railroad contracting companies in the United States performing over $10 billion worth of rail infrastructure construction and maintenance work every year.

The majority of the rail contracting industry is unionized and over 30 of the NRC's most active members have signed a national labor agreement with the Laborers International Union of North America (LIUNA) and the International Union of Operating Engineers (IUOE), forming a joint group known as the Railroad Cooperation and Education Trust (RAILCET). **This testimony is presented as a joint effort of the NRC and RAILCET, with the support of LIUNA.**

NRC members perform every type of rail infrastructure work imaginable - from design and engineering to basic construction and maintenance to highly specialized and custom jobs, including Design, Build, Operate and Maintain (DBOM) projects which in some cases involve Public Private Partnerships (PPPs). Work includes installing new rail, rail welding, rail grinding and surfacing, ballast distribution, tie insertion and removal, grade crossings, signal systems, switches, turnouts, re-railments, bridge maintenance, track design, and track inspection.

NRC members provide service to every type of track owner, including Class 1 railroads, short line and regional railroads, industrial track owners, the United States military, port facilities and terminals, and rail transit agencies operating light rail systems, street cars, subways, metro systems, and commuter rail systems.

In addition, some NRC member companies operate commuter railroads and intercity passenger trains on a contract basis, including such services as Trinity Railway Express in Dallas, New Mexico's RailRunner, the Altamont Commuter Express from San Jose to Stockton, CA, and the Coaster from San Diego to Oceanside. CA.

Benefits of Rail
The improvement of the rail freight industry since de-regulation by the Staggers Act in 1980 and the growth in rail transit have provided tremendous benefits to America. Our rail freight system is widely regarded as the **world's most efficient**, and is a major contributor to the economic competitiveness of American industry. The railroad industry employs well over a quarter million people, pays billions of dollars in taxes, efficiently serves tens of thousands of shippers, and is one of the true economic success stories of the last 25 years.

Moreover, moving freight and people by rail is **environmentally friendly**. Railroads are three to four times more fuel efficient than trucks on a freight-ton mile basis. A railroad can move one ton of freight from here in Washington DC to Boston on one gallon of diesel fuel. Moving freight by rail, as compared to trucks or even water barges, dramatically reduces greenhouse gas emissions and cuts fuel consumption. Steel wheel on steel rail is simply the most efficient way available to move freight in this country.

Moving people by rail transit on public transportation systems has an equally dramatic effect. By taking existing public rail transportation instead of driving a car, a single person saves 4,800 pounds of carbon dioxide emissions per year. Commuting by rail transit to work provides greater benefit to the environment than adjusting the thermostat in your home, installing energy efficient light bulbs, and buying Energy Star appliances combined.

Investments into rail transit systems also have the benefit of encouraging more efficient and environmentally sound land-use patterns and facilitating high-density economic development focused around rail transit stations.

Taken together, freight rail and passenger rail play a crucial role in removing cars and trucks from the road and **decongesting our crowded highway system**, which is already unacceptably saturated – the Texas Transportation Institute tells us that motorists in the largest urban areas in the country are spending 54 hours in traffic delays every year. That is more than a full working week each year of completely unproductive time spent sitting in traffic. TTI also estimates that traffic congestion cost our economy $78 billion last year. A typical freight train takes over 200 18-wheelers off the road, eliminating close to 100 million truck trips last year. Last year alone, there were over 4 billion trips taken on rail transit systems. Without these rail systems, highway congestion would become intolerable and result in gridlock across much of America. With increased investment into these rail systems, highway congestion can be significantly reduced and the pressure and expense of building new highways can be relieved.

Railroads also play a crucial role in the **safety and security** of our country by:

- efficiently transporting military personnel and equipment;
- lessening our dependence on foreign oil;
- providing disaster evacuation and recovery assistance during catastrophes (railroads are often the most resilient form of transportation); and
- safely transporting the vast majority of hazardous materials in the country

Capacity

Given the economic, environmental, safety, and security benefits of freight and passenger rail, it should be a goal of **public policy to shift more freight and passenger traffic to rail**. To do that, the current rail network must be maintained properly and made more efficient, and additional capacity must be added to the system.

Even taking into account the recent economic weakness, the **rail network is constrained by insufficient capacity**, and it will undoubtedly get worse unless we start prioritizing the issue and fixing the problem as soon as possible. Commissioners on the National Surface Transportation Policy and Revenue Study Commission believe that freight volumes will be 70% higher by 2020 than they were in 1998. According to AASHTO, the organization of State DOTs, tons of freight shipped into the U.S. will rise from 16 billion in 2007 to 31 billion in 2035. A lack of capacity causes higher prices for shippers, decreased efficiency for carriers, and the loss of the benefits that rail transportation can provide for our country.

The major recent study by Cambridge Systematics estimates that, using today's dollars, an investment of $148 billion for rail infrastructure expansion over the next 28 years is required to keep pace with economic growth and meet the U.S. DOT's forecasted demand for rail freight. And this does not take into account the desired shift in market share to rail that would provide further benefits to the country. Of this $148 billion amount, the Class 1 freight railroads' share is $135 billion and the short line and regional freight railroads' share is $13 billion.

The Class 1 railroads anticipate that they will be able to generate approximately $96 billion of their $135 billion share through internally generated cash flow. This would leave a balance for the Class 1 freight railroads of $39 billion, or about $1.4 billion per year to be funded from outside sources, simply to maintain their current share of the freight market. The amount of funding required is much higher if we aim for our goal of expanding freight rail market share.

This problem, of more funding being required than the private rail system can generate on its own, is precisely the issue this Committee will have to grapple with during the next transportation re-authorization legislation. The short line and regional railroads face the same issue as the Class 1s, and rail transit systems throughout the country are also seeing demand for their services far exceeding funding resources that are currently available.

So, it seems clear that freight and passenger rail transportation is highly beneficial to America. And it is equally clear that the current rail system is lacking in capacity and needs an infusion of new investment to meet demand in the future. **The rail system is an integral component of the nation's intermodal transportation network, but it can and must do more.** And I think we would all agree that the current transportation legislation framework is not organized in a way that makes it easy for Congress to direct increased funding to the rail system.

Rail Infrastructure Investments as Economic Stimulus

The timing is right! The economic stimulus package being debated right now is an excellent opportunity to direct some immediate funding and improvements into the rail network. Investing in rail infrastructure is an efficient and cost effective way to stimulate the domestic economy. These investments create well-paying local construction and permanent operating jobs that **cannot be outsourced**. The supply industry that supports the rail industry is almost entirely based in the U.S. – everything from the railroad ties to the steel track to the heavy earth moving equipment required for rail construction is produced domestically and investments into rail infrastructure will create jobs in these sectors too.

Shovel-ready rail projects are generally constructed on existing company owned right-of-way, and thus require no additional local permitting or environmental review. These projects will not be delayed by regulations and the **stimulus effect will begin immediately**. Tax credits and RRIF loan interest rate reductions can also leverage substantial additional private investment into rail infrastructure.

Legislative and Policy Proposals

The NRC believes that Congress should use the opportunity of the next transportation re-authorization legislation to completely revamp transportation law in this country. As many of the leaders of this Committee believe and have stated publicly, the next transportation re-authorization legislation should not be incremental in nature – it should be **transformational**.

Transportation for Tomorrow
As a basis for this transformation, we endorse the Transportation for Tomorrow framework put forward by the **National Surface Transportation Policy and Revenue Study Commission**.

Specifically, we support:

- In the stimulus bill, invest at least $12 billion into **the rail transit system**, as proposed by Chairman Oberstar, including $6b for Transit Capital Assistance (as proposed by the House Appropriations Committee), $3.5b for Fixed Guideway Infrastructure Investment (up from proposed $2b), and $2.5b for Capital Investment Grants/New Starts Funding (up from proposed $1b)
    - In the SAFETEA-LU Reauthorization, **grow the current federal transit program in size, while maintaining the overall structure and funding guarantee system.** This system has been very successful and simply needs to be bigger to meet rail transit demand. Transit projects would also benefit from expedited review and project delivery reforms, which would help limit their high cost.
        I. The simplest and most efficient way to grow the Highway Trust Fund (which should be renamed the Surface Transportation Trust Fund) that the transit program is funded out of is to **increase the gas tax**, and the NRC supports this method. We reject the notion that the political will for a gas tax increase does not exist. We believe that the American public will support a gas tax increase if it believes the additional funding will be invested efficiently into useful transportation infrastructure.

- The adoption of the proposed Freight Rail Infrastructure Capacity Expansion Act (H.R. 272) with Davis-Bacon provisions, which provides a **25% tax credit for rail infrastructure investments that would expand capacity**. This credit has been introduced by Representative Kendrick Meek (D-FL).

- Extend the **Short Line Railroad Rehabilitation Tax Credit**, which provides a 50% tax credit for railroad rehabilitation spending to preserve the viability of short line and regional railroads as feeder lines for the national rail network, through 2015 (expires December 31, 2009) and raise the credit cap from $3,500 per track mile owned to $10,000 per mile

- Appropriate at least $100 million over two years for **capital grants for Class II and III railroads** through a DOT competitive grant program as authorized by 49 U.S.C. 22301, as amended by section 1112 of the Energy Independence and Security Act of 2007 (P.L. 110-140) and proposed by Chairman Oberstar in his "Proposal To Rebuild America By Investing In Transportation And Environmental Infrastructure"

- Of all the potential stimulus spending proposals that we are aware of, we believe that grants to short line railroads would be spent the quickest and most efficiently. Most of the 550 short line railroads in America have additional infrastructure maintenance and improvement work that they could literally begin tomorrow if the funding became available, and railroad contractors are ready and available to perform this work.

- Leverage additional private investment by improving the **Railroad Rehabilitation and Improvement Financing (RRIF) loan program** by setting an interest rate of 1% on all qualified rail infrastructure investment projects and deferring initial principal repayment by 6 years
  - Innovative financial tools and programs such as **TIFIA** are already working well, and they should be expanded. RRIF is a valuable infrastructure program that is under-utilized by the railroads. RRIF provides low interest, 35 year money for railroad rehabilitation and construction. The FRA has approved 20 RRIF loans for a combined total of $743.6 million. One of the reasons the program is underutilized is the unnecessary length of time it takes to process an application, due to institutional opposition to the program in the OMB. The OMB should not oppose a successful program that would increase rail capacity. The RRIF program was enacted in 1998 and no railroad has ever missed a single RRIF loan payment. The program should be expanded and improved.
  - One of the benefits of RRIF and TIFIA, in addition to the tax credit programs I have noted, is that they **leverage private investment**, rather than providing direct government funding. This ensures that taxpayer money will never be invested in projects that should not be funded.

- Strong federal support of **public-private partnerships** such as the Alameda Corridor, Chicago CREATE, Norfolk Southern's Heartland Corridor, CSX's National Gateway, and the Orlando commuter rail/CSX deal.

- Invest $3.4 billion in **high-speed and intercity passenger rail capital grants to States** through DOT competitive grant programs as authorized by 49 U.S.C. 26106, as added by section 501 of the Passenger Rail Investment and Improvement Act of 2008 (Division B of P.L. 110-432) and chapter 244 of 49 U.S.C, as added by section 301 of the Passenger Rail Investment and Improvement Act of 2008 (Division B of P.L. 110-432), and as proposed by Chairman Oberstar (up from $300m in proposal by the House Appropriations Committee)
  - It is the NRC/RAILCET position that intercity passenger rail operators should be under the railroad labor laws and railroad retirement system, even for intrastate operations. However, we are adamant that employers who provide contract services to public authorities or private entities for maintenance of track, infrastructure and signal systems are not rail operators and should not be treated as such. It would not make sense for these private construction contractors who provide services to a broad array of transportation providers to operate under the

very unique railroad carrier specific labor and retirement laws. They should continue to operate under the National Labor Relations Act, Social Security and the standard industrial laws of the country as they do today.

- In the SAFETEA-LU Re-Authorization, the NRC supports a **major increase in investment into intercity passenger rail, with reform of the current Amtrak system.** The eventual goal should be true high speed rail, with dedicated track and right of way. However, the current reality is a system of joint use by freight and passenger rail. Passenger rail should be improved, but that can not come at the expense of freight rail or else it is counter-productive to the country and our goal of increased rail capacity.
- We believe that the **"Alternate Passenger Rail Service Pilot Program"** provided in Section 214 of the Passenger Rail Investment and Improvement Act of 2008 (Division B of P.L. 110-432) is a good start towards reform and that efforts such as this to encourage **greater private participation** in the intercity passenger rail network should be expanded – competition between Amtrak and qualified private operators with the approval of track owners will result in better service for all rail passengers.
- This Committee should consider the establishment of a dedicated **Passenger Rail Trust Fund**, which could be funded through a combination of ticket surcharges, a portion of a new carbon tax, a portion of a gas tax increase, or general fund revenues.

- Provide $1.5 billion for **capital grants to Amtrak**, as proposed by Chairman Oberstar (up from $800m in proposal by the House Appropriations Committee)

- The continuation and enhancement of the **Section 130 Grade Crossing Program**, which has a long record of success in improving public safety.

- This Committee should also consider the establishment of a national, multi-modal freight transportation program, paid for with a new, dedicated **freight trust fund**, as called for by the National Surface Transportation Policy and Revenue Commission. This program would be mode-neutral and direct federal funding towards projects on a strictly **merit-based approach**. The program would provide public investment in crucial, high-cost transportation infrastructure including strategic intermodal connectors, key freight corridors, and national rail bridges and tunnels where the cost of construction exceeds the return on privately invested capital.
  - This concept is being developed by The Coalition for America's Gateways and Trade Corridors (CAGTC), a group that the NRC is a member of, along with various State DOTs, ports, planning commissions, and private engineering and construction companies.
  - Revenue raising options for this fund include a national bill of lading fee, a new freight consumption fee, increased customs fees, or a dedicated national sales tax, with the following three conditions:

I. Any freight fee should be paid by the beneficial cargo owner, not transportation intermediaries such as steamship, trucking, or rail companies.
II. The private sector should neither bill nor administer the fee.
III. A national freight fee should preempt all local fees.

- The **project delivery process** must be reformed by significantly shortening the time it takes to complete reviews and obtain permits. Projects must be designed, approved and built as quickly as possible if we are to meet the huge transportation capacity challenges facing us. It takes too long to deliver projects, and the waste due to delay in the form of administrative and planning costs, inflation, and lost opportunities for alternative use of the capital hinder us from achieving our capacity expansion goals.
    - This expediting of transportation projects can be accomplished while retaining all current environmental safeguards.

Finally, we'd like to strongly urge that all rail construction and maintenance work performed with federal assistance be **competitively bid** out to the independent railroad construction industry, to the fullest extent possible, to ensure the most efficient use of taxpayer dollars.

There should be fair treatment for employees in all circumstances, with prevailing wage criteria applied to federally funded projects. To the extent consistent with railroad labor agreements, all federally financed or subsidized rail projects should be subjected to fair and competitive contracting between responsible contractors which adhere to a set of professional standards.

Railroad contractors have a long and well-documented history of safely providing quality services at competitive prices. We have learned how to do more with less, and the efficiency and competence we bring to this task will be a big benefit as we all search for ways to improve America's transportation infrastructure and **stretch available capitol dollars** as far as possible.